

Scottish Statutory Instrument 2004 No. 228

The Community Right to Buy (Ballot) (Scotland) Regulations 2004

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SCOTTISH STATUTORY INSTRUMENTS

2004 No. 228

LAND REFORM

The Community Right to Buy (Ballot) (Scotland) Regulations 2004

<i>Made</i>	<i>18th May 2004</i>
<i>Laid before the Scottish Parliament</i>	<i>21st May 2004</i>
<i>Coming into force</i>	<i>15th June 2004</i>

The Scottish Ministers, in exercise of the powers conferred by section 52(1) and (3) of the Land Reform (Scotland) Act 2003^[1] and of all other powers enabling them in that behalf, hereby make the following Regulations:

Citation, commencement and interpretation

1. - (1) These Regulations may be cited as the Community Right to Buy (Ballot) (Scotland) Regulations 2004 and shall come into force on 15th June 2004.

(2) In these Regulations-

"the Act" means the Land Reform (Scotland) Act 2003; and

"community body" means a body of the type defined in section 34 of the Act.

Conduct of Ballot

2. The ballot shall be a secret ballot and shall be conducted in a fair and reasonable manner.

3. The community body shall ascertain from the voters roll the number of eligible voters in the community as defined for the purposes of section 34(1)(a) of the Act.

4. - (1) Subject to regulation 5 the date and place on which the ballot will be held shall be notified in writing to all eligible voters, and there shall be a period of not less than 10 days from the date on which such intimation is made to the date on which the ballot is to be held.

(2) The notice referred to in paragraph (1) shall set forth the question on which the eligible voters shall vote, and shall include a description of the land and any salmon fishings or mineral rights to which the question pertains.

5. If the community body wishes to hold a postal ballot each eligible voter shall be sent a ballot paper with the question on which the vote is to be taken and the date and time, being not less than 10 days from the date of posting, on which the paper must be returned. Each voter shall be provided with a stamped addressed envelope for returning the completed ballot paper.

Proxy Votes

6. In the event of any eligible voter being unable for good cause to exercise his right to vote either at the ballot or in the postal ballot held by virtue of regulations 4 and 5 respectively the community body may permit a proxy to vote for that person. The community body must retain a record of any proxy authorisation, and the proposed use of a proxy must be notified in writing by the eligible voter to the community body prior to the ballot.

Ballot results

7. - (1) Within 14 days of the holding of the ballot, or in the case of a postal ballot, within 14 days from the date specified for the return of the ballot papers, the community body shall publish in a newspaper circulating in the vicinity of the community-

(a) the number of persons eligible to vote in the ballot;

(b) the number of persons eligible to vote who voted; and

(c) the number of votes cast for and against the proposition that the community body buy the land.

(2) Within 28 days of the date specified in section 52(4) of the Act the community body shall return to Ministers in, or as near as may be in, the form specified in the Schedule to these Regulations the information detailed therein.

(3) Ministers may within a period of 7 days after the return of the ballot result request from the community body such additional information pertaining to the ballot as they may require, and the community body shall supply such information within a further period of 7 days from the date of the request being made.

Retention of Ballot papers

8. The community body shall retain-

- (a) all completed voting papers;
- (b) in the case of a postal ballot evidence of sending the ballot papers;
and
- (c) any proxy authorisations and notifications of intention to use a proxy,

for a period of 2 years after the date of the ballot, and these papers and evidence shall be available, on request, for inspection by members of the community, Ministers or any other person with a right of appeal under sections 61 or 62 of the Act.

ALLAN WILSON

Authorised to sign by the Scottish Ministers

St Andrew's House, Edinburgh
18th May 2004

SCHEDULE

Regulation 7

LAND REFORM (SCOTLAND) ACT 2003

BALLOT RETURN FORM

1. Name of community body.
2. Registration number in Register of Community Interest in Land.
3. Date of ballot.
4. Question which was put to the ballot.

5. Result of vote.

6. Number of persons eligible to vote.

7. Number of eligible persons who voted, including details of the number of proxy votes cast.

8. Number of eligible persons who voted in favour of buying the land proposed to be purchased.

9. Name, address and telephone number of community body representative making the ballot return.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations set out the requirements on a community body which is holding a ballot under section 52 of the Land Reform (Scotland) Act 2003 on the question of whether to proceed with a land purchase.

Regulation 2 provides that there be a secret ballot and that it should be conducted in a fair and reasonable manner. Under regulation 3 the community body is required to ascertain from the voters roll who is eligible to vote in the ballot. Regulations 4 and 5 give the community body the option of holding an ordinary ballot or a postal ballot, and regulation 6 permits proxy votes in certain circumstances.

Regulation 7 requires the community body to publish the result of the ballot in a newspaper circulating in the vicinity, and also to notify Scottish Ministers of the result and the other information specified in the form set out in the Schedule to the Regulations. Scottish Ministers are also empowered to call for additional information pertaining to the ballot from the community body. Regulation 8 requires the retention by the community body of the ballot papers; where a postal ballot has been held, evidence of the sending of the ballot papers; and any proxy authorisations and notifications of intention to use a proxy, for a period of 2 years. That Regulation also permits Scottish Ministers and specified persons to inspect the documents retained.

Notes:

[1] 2003 asp 2. Section 98(1) contains definitions of "Ministers" and "prescribed" relevant to the exercise of the statutory powers under which these Regulations are made.[back](#)

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